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COMMENT(S)	

161939

IN THE CIRCUIT COURT OF THE TWENTIETH JUDICIAL CIRCUIT
ST. CLAIR COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS,

Plaintiff,

vs.

PAUL SAUGET,

Defendant.

No. 81-CH-19

ORDER

This cause having come before the Court on the Plaintiff's petition for rule to show cause why the Defendant should not be held in contempt, an evidentiary hearing having been held on July 24, 1985, the Plaintiff being present by Mark A. LaRose, Assistant Attorney General, and Bruce Carlson, attorney for the Illinois Environmental Protection Agency, and the Defendant being present personally and by his attorney Harold Baker, the Court having heard and reviewed the testimony, exhibits, and arguments of the parties, and the Court being fully advised in the premises, makes the following findings:

1. The testimony of the Defendant conclusively established that he is in continuing, knowing, willful and repeated violation of the order of this Court, entered on March 27, 1984 pursuant to Stipulation and agreement of the parties entered March 22, 1984, in that he had failed to take any actions required by paragraphs 5, 6, 8, 9 and 10 of the stipulation and agreement entered into by the parties on March 22, 1984 and approved by the Court on March 27, 1984.

2. Although the Defendant attempted to make excuses for his failure to comply, including but not limited to financial difficulty and problems with site access due to bad weather, the testimony clearly established that the Defendant failed to comply with or utilize the provisions of paragraph 7 of the stipulation and agreement [written notice to the Attorney General's office of any claim for extension of time due to extenuating circumstances] or paragraph 11 [dispute resolution to be submitted to the Court]. Therefore, the Defendant has waived his right to make any claims or excuses for his failure to comply with the order, and this Court will not entertain any such claims or excuses.

3. The testimony of Patrick M. McCarthy, environmental specialist with the Illinois Environmental Protection Agency, and the exhibits offered through his testimony, clearly established that the tract of land subject to the March 27, 1984 order has been inspected numerous times by Mr. McCarthy, including March, June, and July, 1985, and including many dates from 1978 to 1985, and that the site condition has not changed substantially since 1978, and specifically since the March 27, 1984 order. As of the date of the hearing, the site did not have the amount of final cover required by the applicable regulations and agreed upon by the parties in the stipulation and agreement that was approved by the Court on March 27, 1984.

4. Although the Defendant claimed financial difficulty in complying with the order, and specifically claimed that he did not have the economic ability to pay \$125,000 toward compliance with the order, the testimony of Delbert Haschemeyer, Deputy

Director of the IEPA, and the testimony of Harold Baker, attorney for the Defendant, established that the Defendant had the financial ability to pay at least \$125,000 toward compliance with the March 27, 1984 order of this Court.

5. On the basis of the foregoing, the Court held, from the bench, that the Defendant was in willful, knowing and repeated violation of this Court's order of March 27, 1984, and that he had failed to show cause why he should not be held in contempt of Court. Accordingly, the Court held the Defendant in contempt of court and took under consideration and advisement the issue of imposition of civil penalties.

In accordance with this Court's order of contempt issued from the bench on July 24, 1985, the following civil contempt sanctions ARE HEREBY ORDERED:

A. Within thirty (30) days of the entry of this order, the Defendant is ordered to enter into firm written contracts for the acquisition, placement, spreading, and compaction of at least two feet of suitable cover material having a permeability rate of not greater than 1×10^{-6} cm/sec. on all of Section "B" of the site and 50% of Section "A" of the site. The contracts are to provide for completion of said work by no later than July 1, 1986.

B. Within ninety (90) days of the entry of this Order, the Defendant is ordered to enter into firm written contracts for the placement, spreading and compaction of at least two feet of suitable cover having a permeability rate of not greater than 1×10^{-6} cm/sec. on all of Section "C" of the site and the remainder

of Section A of the site. The contracts are to provide for completion of said work by no later than October 1, 1986.

C. Upon entry into the contracts as ordered in paragraphs A and B above, the Defendant shall file the same with the Court and serve copies upon the Illinois Environmental Protection Agency and the Illinois Attorney General's office. It shall be Defendant's obligation to insure that the work provided for in paragraphs A and B above is properly carried out and completed in a timely manner.

D. Upon completion of any portions of the site containing ten or more acres, the Defendant shall notify the Collinsville office of the IEPA in writing, with a copy to the Illinois Attorney General's office. Within fourteen (14) days of receipt of notification, an employee of the IEPA shall inspect that portion of the site which the Defendant claims has received two feet of suitable cover material. If, as a result of the inspection, IEPA is of the opinion that two feet of suitable cover has been uniformly deposited over that portion of the site inspected, IEPA shall so notify the Defendant in writing. If, as the result of the inspection, IEPA is of the opinion that two feet of suitable cover has not been uniformly deposited over that portion of the site inspected, IEPA shall so notify said Defendant in writing, designating what part or parts need additional cover, and the Defendant shall thereafter deposit such additional cover and request, in writing, a subsequent inspection. Furthermore, if and when the Defendant believes all portions of all sections of the site have received the required

final cover, he shall specifically notify the IEPA in writing of such claim with a copy to the Illinois Attorney General's office. Within fourteen (14) days of notification, an employee of IEPA shall inspect the site. If, as a result of their inspection, IEPA is of the opinion that two feet of suitable cover material has been uniformly deposited and remains uniformly in place on the site, IEPA shall so notify the Defendant in writing and thereafter the Defendants shall be discharged from any further duty or obligation under the provisions of the Court's Order of March 27, 1984. If, as the result of their inspection, IEPA is of the opinion that two feet of suitable cover has not been uniformly deposited or does not remain uniformly in place on the site, IEPA shall so notify the Defendant in writing, designating what part of parts need additional cover, and the Defendant shall thereafter deposit such additional cover and request, in writing, a subsequent inspection.

E. Within thirty (30) days of this Order, the Defendant shall pay to the State of Illinois, a civil contempt penalty in the amount of \$10,000, said money to be deposited in the Environmental Protection Trust Fund. The check shall be sent to the Illinois Attorney General's office, and a copy shall be filed with the Court.

F. Pursuant to §42(f) of the Illinois Environmental Protection Act, Ill. Rev. Stat. 1985 Supp., par. 1042(f), within thirty (30) days of this Order, the Defendant shall pay to the Illinois Attorney General's office the amount of \$1,000, the Court finding that amount to be reasonable as costs and attorneys

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fees incurred as a result of bringing this show cause proceeding. The check shall be sent to the Illinois Attorney General's office, and a copy shall be filed with the Court.

G. The Sheriff of St. Clair County is hereby ordered to incarcerate the Defendant in the St. Clair County jail until such time as the Defendant complies with the terms and conditions of this Order, issuance of the writ to be stayed for a period of ninety (90) days from the date of this Order; said writ shall be executed by the Sheriff on the ninetieth day from the entry of this Order unless dissolved by further order of this Court upon a finding that the Defendant has complied with the terms and conditions of this Order.

H. In the event the Defendant fails to comply with the terms and conditions of this Order, the Court may further order the Defendant to forfeit to the State of Illinois a sum of money of up to \$125,000, said sum to be deposited in the Environmental Protection Trust Fund. Any order of this Court requiring the Defendant to forfeit sums of money to the State of Illinois for failure to comply with this Order will not relieve the Defendant of responsibility or liability for his obligations as ordered in paragraphs A through F of this Order, nor will the forfeiture of any sums so ordered effect, negate or dissolve any rights of the Plaintiff to seek further enforcement of this Order, or seek further remedies for any continuing violations of the Illinois Environmental Protection Act, the Illinois Pollution Control Board regulations, or any other laws of the State of Illinois.

I. This Court shall retain jurisdiction over this action to enforce the provisions of this Order, and the Court may hold hearings from time to time as are necessary to determine the status of the Defendant's compliance with this Order, or for the purpose of enforcing this Order.

ENTERED:

APRIL 1, 1986

Judge Jonathan Isbell

Target Doc/ Photo review

possible 104e questions

To **generators**: did you ever use "GE supermix X-ray refresher"?

If so, for what purpose and what timeframe?

List constituents.

Have you ever used "diethylamine"? If so, for what purpose?

(G: lab jar labelled as this)

Did you ever use a pellet/bead-like media/material at your facility? Was the pellet/bead-like material used as a filter media? Was the pellet/bead-like material color specific to a manufacturing process? Would the pellet/bead-like material become colored (e.g. yellow, blue, tan or brown) during use in a specific manufacturing process? Would the material become contaminated (spent) with penta chlorophenol, naphthalene, chloraniline, or p-toluidine or any other chemical or compound? **[This question should be targeted to all generators, but particularly to Mobile...believed to be part of refining process.]**

Did you use Great Lakes Carbon Corp product called "dicalite"?

If so, what was it and what was its use?

? Nalco (Nalco Aluminates Corp.) 6216 W. 66th Place; Chicago, IL (may want to obtain customer list from 1950-1970)

Stencils=> "swan", "hatley", "mosbacker", "dykanol-A", "Pyranol"

Steel Barrel Co. Invoice to Monsanto for 95 drums--what were there intended use?

Century Electric Co.'s relationship with generators (found invoice at G)

Octylphenol produced by Rohm Haas Co.--who used?

Monsanto: when, why, and how did you produce "Penta Chlorophenol"?

" Describe department 246's duties and role at the plant.

[memo from R.M. McCutchan re: Aroclor Pollution control 5/8/70]

Who supplied your glassware during the 1950s - 1970s? ?

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Procedure \Method for disposal of glassware?*

Describe off-spec product and disposal of such product.*

Describe the chemical components of your product "Santomerse No. 1".
What was its use?

Describe your industrial waste stream associated with your product prior to 1935. (Monsanto admits in memo that prior to 1935 that it is likely that all industrial wastes were disposed of in dead creek.)

Socony Mobile: disposal of ACM at Sauget? (Receipts found at G for asbestos and ACM found at G)

See pellet/bead-like question above

Paul believed that Leo Sauget's 104 e response stated that Mobile dumped refinery waste at G...

104(e) questions: Monsanto/Sauget

Area II, site Q

Site R was owned by Monsanto, but Sauget operated the dump for Monsanto. "Chemical waste" was transported by Monsanto employees to R for disposal.

Sauget would haul "trash" to site Q. Sauget owned site Q.

Test wells were constructed for site R--reports from those tests? [found in Monsanto procedures 9/60]

Monsanto dumped boiler and fly ash at Q--how was ash determined to be "non" hazardous???
What was Monsanto's procedure for determining non from haz??

List of contractors used by Monsanto found in App E (IEPA)

Sites Q & R were used concurrently--both sites accepted liquid waste materials [6.2B]

Exhibit 3.3: Monsanto/Sauget agreement refers only to "site"..what location? [tab "location"]

Monsanto/Sauget agreement provides that only authorized agents of Monsanto's may dump --must have proper permit from Monsanto to be admitted

Lease allowed Sauget to salvage empty drums--permission withdrawn in 1971
=>where were barrels cleaned?
=>memo dated 5/19/78???

Q: Identify agents used / permitted to haul waste to Site Q/R after 1957???

(Possibly use this info to conduct additional interviews of hauler to establish that Q was used to dispose of Monsanto haz. Waste as well as R.)

[These questions arose after reviewing Monsanto's 104e Area 1 responses...exhibits 3.0-3.8]

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Area I, Site G

Have persons identified in Q#1 been deposed?

Have C. I. Interview these parties listed (list found in box I, "deps #1" blue tab)

Exhibit 3.2 gives basic histories of plants but does not address specifically:

=>the recycling process for ea. group of chemicals

=>limited (no) information regarding prior use by Commercial Acid Works or
Indiahoma Oil Refinery

=>off-spec products treatment and disposal practices

=>sale of hazardous waste as by-product...to whom? (14)

=>sale of/disposal of obsolete process equipment

=>treatment/disposal of contaminated clothing, protective gear, and lab waste

Thus, reask these questions and state that Monsanto did not answer in initial response.

Q 18 objected to b/c asked if any haz. Materials generated/used at facility were disposed of at facility=>**restate question using site name (Area I, or site G//area II????)—what did they do prior to opening of R in 1957 with had. Materials generated???**

Q 19-21 responses object that does not seek information, but admission

Q 22: follow up- Ks w/ Sauget provide access only to "permitted" agents ...who were these agents?